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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/759,225 | 01/20/2004 | Pierre Cote | IQB-0007C4 | 6449 |
| 7590 | 05/30/2006 | | EXAMINER | |
| FLESHNER & KIM, LLP | | | COUSO, YON JUNG | |
| P.O. Box 221200 | | | ART UNIT | PAPER NUMBER |
| Chantilly, VA 20153-1200 | | | 2624 | |

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/759,225 | COTE, PIERRE | |
| | Examiner Yon Couso | Art Unit 2624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-44 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

1. Applicant's arguments with respect to claims 1-43 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 8-10 "a first code factor having a value that equals or exceeds a maximum value of the plurality of values indicative of the variations of the facial feature" is vague and indefinite as to what the value is. It is also not clear how the variations of the facial feature can be defined as a value.

Claims 13, 20, 22, 34, 40-43 include the same problem.

Claim 44, lines 5-7 "a second code factor having a value that equals or exceeds a maximum value of the plurality of values indicative of the variations of the position of the facial feature in the composite image" is vague and indefinite as to what the value is. It is also not clear how the variations of the position of the facial feature can be defined as a value.

Claims 2-12, 14-19, 21, 23—39, variously depend from an indefinite antecedent claim.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-10, 13-15, 17-31, 34-36, and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshino et al (US Patent No. 5,644,690) in view of Ohba et al (US Patent No. 5,214,758).

As for claims 1, 22 and 41, Yoshino teaches a method, comprising: receiving a number of facial feature designations (column 4, line 59-column 5, line 6); generating element code corresponding to the facial feature designation, element codes based on a symbol representative of a facial feature, the symbol having one of a plurality of values indicative of variations of the facial feature (column 4, line 48-column 5, line 42); and displaying a composite image based on the facial feature designations (column 5, lines 14-22). Even though Yoshino does not teach details on a first code factor having a value that equals or exceeds a maximum value of the plurality of values indicative of the variations of the facial feature, Yoshino clearly discloses generating code factor of the plurality values indicative of the variations of the facial feature. Moreover, Ohta teaches generating element codes, each element code based on a symbol representative of the

image part associated with the element code, the symbol having one of a plurality of values indicative of variations of the certain characteristics (abstract, lines 4-5), and a first code factor having a value that equals or exceeds a maximum value of the plurality of values indicative of the variations of the certain characteristics (abstract, lines 5-8).

Given the references at the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate element code corresponding to the certain characteristics, including the shape and motion of the characters taught in the Ohba reference into Yoshino which teaches generating code factor of the plurality values indicative of the variations of the facial feature (column 4, line 59-column 5, line 6) because both Ohba and Yoshino deal with characteristics of the character, whether it is limited to the facial characteristics of the character or shape characteristics of the character. Motivation to combine the references would have been the fact that the Ohba and Yoshino both generate element codes corresponding to image feature and each element code is based on a symbol representative of a certain feature, the symbol having one of a plurality of values indicative of variations of the certain feature.

As for claim 2, Yoshino teaches that the receiving step including displaying a plurality of facial feature images (at least figures 4 and 5); and receiving user signals selecting facial feature images included in the composite image (column 4, lines 15-29).

As for claim 3, Yoshino teaches that the displaying the composite image includes displaying the facial feature images in the composite image as the images are selected by the user signals (column 3, line 44-column 4, line 29), the images corresponding to respective ones of the element codes (column 4, line 48-column 5, line 42).

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As for claim 4, Yoshino teaches that the facial feature images in the composite image are displayed at predetermined positions relative to one another when selected (figures 8 and 9).

As for claim 5, Yoshino teaches that receiving user modification signals for changing at least one of a size, shape, or position of at least one of the facial feature images in the composite image (column 5, lines 14-22).

As for claim 6, Yoshino teaches that the user signals are generated by an input device (column 3, lines 46-52).

As for claim 7, Yoshino teaches that the input device includes one of a touch screen, a mouse, a pointing device, and a keyboard (column 3, lines 46-52).

As for claim 8, Yoshino teaches that the plurality of facial feature images are displayed in separate classes (figures 4 and 5).

As for claim 9, Yoshino teaches that the receiving step includes: displaying information corresponding to a plurality of classes of facial features (figures 4 and 5)); and receiving user signals designating facial features in the composite image, each user signal designating a facial feature from a respective one of the classes (column 4, line 59-column 5, line 6).

As for claim 10, Yoshino teaches that the information includes a plurality of groups of facial feature images, each group corresponding to a respective one of the classes (figures 4 and 5).

As for claims 23-31, see claims 2-10 above.

As for claims 13, 17, 18, 19, 34, 38, 39, and 42, Yoshino teaches displaying facial feature images (figures 4 and 5) and displaying a composite facial image (figures 8 and 9), the composite image including facial feature images selected from the first screen area. Even though Yoshino does not teach details on displaying facial feature images on a first area of a screen and displaying a composite facial image on a second area of the screen, Yoshino clearly discloses displaying both facial feature images and a composite facial image information. Given the reference at the time the invention was made, it would have been obvious to one of ordinary skill in the art to display facial feature images and a composite facial image in a manner convenient to one of ordinary skill in the art because there is no specific teaching in the Yoshino as to how the facial feature images and a composite facial image should be displayed. Display format is usually based on the user's preference that it is deemed to be a matter of personal preference as to how the facial feature images and a composite facial image are displayed. Yoshino teaches a method, comprising: receiving a number of facial feature designations (column 4, line 59-column 5, line 6); generating element code corresponding to the facial feature designation, element codes based on a symbol representative of a facial feature, the symbol having one of a plurality of values indicative of variations of the facial feature (column 4, line 48-column 5, line 42); and displaying a composite image based on the facial feature designations (column 5, lines 14-22).

With regard to a first code factor having a value that equals or exceeds a maximum value of the plurality of values indicative of the variations of the facial feature,

Yoshino clearly discloses generating code factor of the plurality values indicative of the variations of the facial feature. Moreover, Ohba teaches generating element codes, each element code based on a symbol representative of the image part associated with the element code, the symbol having one of a plurality of values indicative of variations of the certain characteristics (abstract, lines 4-5), and a first code factor having a value that equals or exceeds a maximum value of the plurality of values indicative of the variations of the certain characteristics (abstract, lines 5-8). Given the references at the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate element code corresponding to the certain characteristics, including the shape and motion of the characters taught in the Ohba reference into Yoshino which teaches generating code factor of the plurality values indicative of the variations of the facial feature (column 4, line 59-column 5, line 6) because both Ohba and Yoshino deal with characteristics of the character, whether it is limited to the facial characteristics of the character or shape characteristics of the character. Motivation to combine the references would have been the fact that the Ohba and Yoshino both generate element codes corresponding to image feature and each element code is based on a symbol representative of a certain feature, the symbol having one of a plurality of values indicative of variations of the certain feature.

For claims 14, 15, 35, and 36, see claims 9-10 above.

For claims 20, 40, and 43, Yoshino teaches automatically modifying the composite facial image based on a selection of a facial feature image (column 5, lines 14-22).

For claim 21, see claim 10 above.

4. Claims 11, 12, 16, 32, 33, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshino et al (US Patent No. 5,644,690) in view of Ohba et al (US Patent No. 5,214,758) as applied to claims 1, 22, and 41 and further in view of Johnston (US Patent No. 5,375,195).

As for claims 11 and 12, Yoshino teaches that the classes of facial features are selected from the group comprising eyes, mouth, nose, jaw line, face shape, and hair (column 4, lines 21-29 and figures 4 and 5). Even though Yoshino does not specifically teach the facial features such as beard, mustache, lips, skin pigment, and identifying features, it would have been obvious to one of ordinary skill in the art to include any number of facial features into the teaching of Yoshino. Moreover Johnston, which is an old and well-known reference in the art of generating composite human faces, teaches various facial features, such as forehead, eyebrows, lips, chin, cheeks, beards, and eyeglasses (column 1, lines 51-57). Johnston also teaches skin pigment (column 1, lines 57-60). Johnston also discloses moustaches and hats (column 12, lines 35-39). Given the references at the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate facial features taught in the Johnston's reference into Yoshino which primarily discloses basic feature of the forehead because by adding the additional features such as hats, beards, eyeglasses, forehead, eyebrows, lips, chin, cheeks, moustaches, and skin pigment would enhance the composite image of human faces.

For claims 16, 32, 33, and 37, see claims 11 and 12 above.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

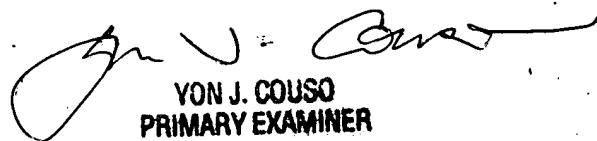
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yon Couso whose telephone number is (571) 272-7448. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu, can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VON J. COUSO
PRIMARY EXAMINER

YJC

May 17, 2006